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RECEIVED PER "FALKINBURG" and for sale by (48) BOLLES & CO. Russia Bolt Rope,

THE KING TS. A. MANNER.

CHIEF JUSTICE ALLEN:

The defendant was convicted of the larceny of cattle by the district magistrate of Koolauloa about the 25th of October last past, from whose judgment he appealed to this Court, and the same is now pending. The defendant, by his attorney, files a plea 'n bar to any further proceedings in this case, in which he alleges that he was duly convicted by the same district justice on or about the -th of August for the same act of larceny, from which he appealed to the Supreme Court, and that the same was entered at the last October term, and that at the same term of said Court a nolle prosequi was entered by the deputy attorney-general, with the consent of the Court.

The counsel for the defendant contends that each picture is, in some sense, an that as the law will not suffer a man to be twice put in jeopardy for the same offense, that this defendant should be discharged. He contends that the judgment of the magistrate and the discontinuance of the complaint on the appeal from said judgment, is the same in principle as if the defendant had been indicted, tried and acquitted. It is an admitted principle that there

cannot be legally a second prosecution when there has once been a verdict of acquittal, or conviction, regularly had upon a sufficient indictment.

It is contended that as the discontinuance of proceedings in the appellate Court operated by force of law to defeat the judgment of the magistrate, that therefore it is analogous to an acquittal after trial.

The Code is in these words: "Any person acquitted on trial of any charge of any offense upon the ground of variance between the indictment, information or complaint and the proof, or upon any exception to the form or to the substance of the indictment, information or complaint, may be subsequently tried and convicted of such offense under a new indictment, information or complaint, notwithstanding such former acquittal."

By the provision of the Code, a man quent indictment for the same offense when he was discharged upon insufficient indictment, and by section 1010 of the General Shipping & Commission | Code it is provided that when an appeal is duly taken and perfected in any case contended that it is a bar to a subsequent prosecution.

ting magistrate, he is still liable to a new ogous to an acquittal after trial by a jury on a good and sufficient indictment.

The constitutional provision is, that a man shall not be twice put in jeopardy would constitute a bar to an indictment Shipping and Local Requirements for the same offense,-Com'th vs. Loud, 3 modeling and handling are so exquisite Met. 328

In the case of the People vs. Casborous, a prisoner has been convicted, the judgment is arrested, the proceedings set aside, and the prisoner discharged, he cannot be said to have been legally placed in jeopardy, and cannot plead the arrest in bar to a subsequent indictment.

In this case, the proceedings of the magistrace were set aside and his judgment virtuali- arrested, and it does not present so strong a case for the defendant as that reterred to in Johnson, as in that case the defendant had been convicted by a jury.

We regard the conviction in the magistrate's court as conclusive when the sentence is complied with, but on an appeal when a discontinuance is made, it is analogous to a nolle prosequi on an indictment, and we regard it as no bar to subsequent proceedings .- 3 Metcalf 328, Com'th vs. Loud; 13 Mass, 455 vs. Goddard. Plea in bar adjudged bad. .

Attorney General for the Crown; A. F. Judd for defendant.

The Rival Holbein Madonnas.

that the Darmstadt picture was painted saw the water rushing in through the side first. Holbein lived ten years in Basle, of the ship and charged the master with between \$515 and 1526; the Burgomaster the crime, and that he agreed to pay them Various other Merchandise Meyer and his family who kneel around two hundred dollars each. The mate and the Madonna were of that city, and the Bruce gave their depositions and were original drawings for the portraits are cross-examined at great length. The mate helieve it is now conceded that the Darm. ing the voyage, which he said was made by Holbein, with little or no assistance ship. The witnesses were called upon to al, the question is, How did the Dresden loaded her that it was pretty clear they replica come into existence? In default had never seen them. of positive evidence, several conjectures, Judge Lowell decided that he was satwearing more or less probability, have isfied the story was a fabrication through-

Supreme Court, Jan'y Term, 1879. tured the suggestion that the first picture ed in Boston. He said in substance, that tion of the subject, which, in the needy circumstances of the painter, could only have been acceptable." "I am therefore picture exhibits, are such as to render it

which the walls of a room would admit."

\$6.00 PER YEAR.

original; the Darmstadt example because it was first painted, the Dresden because it is something more than a replica, or copy. A copyist would scarcely improve: the Dresden picture is not a copy because of the alterations introduced. The second picture is more imposing in proportions, and not only has the panel the advantage of more height, but the Madonna's head has greater loveliness and serenity. Other modifications, which may scarcely be improvements, are yet not accidental but intentional. Thus the change of color in the Madonna's robe from green-blue to green-black, is an altered key which runs through the whole composition; even the colors in the carpet are made to respond to the modified scheme. We recognize, then, the master's mind in the changed composition; Holbein, when he received the second commission, bethought himself what modifications the new conditions called for. In the words of Herr Grimm, the author of the Life of Michael Angelo, the artist prepared a new cartoon, then left the carrying out in part to his scholars, and painted, himself, upon the picture as much as he deemed necessary."

The last extract goes far to explain the anomalies which the Dresden picture premay be tried and convicted upon a subse- sents - the apparent contradiction between a design which is superior and a manipulation which is inferior. The renoprovided for in this chapter, this shall immediately thereafter operate as an arrest the history of art affords. Raffaelle's of judgment and stay of execution. It, earliest frescoes in the Vatican were car- The indications of poisoning causes for example, a discharge is made by a cor- ried out in great measure by his own the paper containing only a little arsenic, oner's inquest or grand jury, it will not be hands; whereas his later works were del- were clear in every case. After fourteen It will not be denied that after a man is pupils in the studio of Rubens. In pic- writer (whose scientific position and powarrested, and discharged by the committures thus in part painted by deputy, it er as an observer is vouched for by the indictment. In the case at bar, the judg- the master's hand ends, and where the who publishes the paper) has given up ment of the magistrate was that the defendant was guilty, and a discontinuance | den Madonna the perplexity is so great was entered in the appellate Court before that probably no two persons come to the than formerly. If distemper or oil-paint trial. This cannot be considered as anal. same concluson. Yet as to certain passages there can be little doubt; for viously too poorly painted for the master, while on the contrary the Madonna's for the same offense, and a performance of head, the child in her arms, and the child the sentence pursuant to the judgment standing on the ground, could only have come from the master himself. Here the that a German critic has fallen into the paradox of declaring that if Holbein did 13 Johns 351, the Court say that if, after not paint these portions, a superior to Holbein must have been at work.-Saturday Review,

The case of the ship White Swallow, the trial of which was lately completed in the United States District Court, presented various remarkable features. The ship, as has been before stated, was on a voyage to Hongkong and was abandoned off Faval in June last, In September the first and second mates, steward, sailmaker and two of the crew, joined in a libel against the owners, claiming pay in sums from four hundred to six hundred dollars each on the ground that the master had destroyed the ship by boring holes in her. The case was lost to the complainants simply because their story could not be believed, and a chief reason why it appeared incredible was the similarity of the account to that told by Charles Reade in his novel of "Foul Play." In the course of the trial the mate swore that he saw four holes bored in the run of the ship by the captain. The sailmaker, (Bruce) the sec-We believe it is admitted on all hands ond mate and steward testified that they still preserved within the Museum. We produced a chart with marks upon it showstaut picture was emphatically painted by the master and himself on board the from pupils. Certainly, when compared describe the parts of the vessel in which with its rival, the execution is found to they said the holes were bored, and their possess singular evenness and unity. The description differed so materially from that Darmstadt picture, then, being the origin- of the builder of the vessel and those who

SSORTED SIZES-For sale by BOLLES 4 CO. been put forth. Thus Dr. Waagen ven out and that the chart produced was mark- by 447 those of the same period in 1270.

RATES OF ADVERTISING. Space Measured in I w. I m. I m. Sm., Sm. 15 m.

having been painted for a church, a replica the difficulty in the case was to believe was required by Bugomaster Meyer for the story the men told. The witness his own house. "It is easy to under- Bruce, who had been reading a novel of stand," writes this well-balanced critic, great power, goes to sea and finds a mas-"that the patron, desiring to possess such | ter carrying out the details of the plot of excellent portraits of his own family thus that story-speaking with the mate about devontly engaged, as an ornament of one getting the boats ready before there is of his own rooms, was induced to give any leak; afterward whispering with the Holbein the commission to paint a repeti- mate; the mate carrying an anger below and staying there a long time; the leak increasing; the same thing repeated twice more and the vessel abandoned; a protest convinced," continued Dr. Waagen, "that read so low that the crew could not hear the Dresden picture owes its creation to it. All these things are point by point cosome such circumstance. The alterations incident with those of the striking book also, which a comparison with the first of fiction which the witness had been reading. The improbability that he should happen to find the truth following more suitable for that closer inspection so closely on the earlier fiction is very great. On this being pointed out to him The conclusion to which we incline is he came in the next day and said that the master was in the habit of reading the same story during the voyage, and that he had often seen the book lying on the poop. The judge thought this was if possible, more unlikely than the other statement, because such an act on the master's part would be equivalent to leaving a printed confession in plain sight of his crew .- Boston Herald,

Poisonous Paper.-A gentleman who

has had fourteen years' experience on the matter regarding which he now directs the attention of the public, makes the appalling statement not only that (as has long been generally known) green paper for house walls contain arsenical preparations which may for years evolve poisonous particles, but that arsenic is used not only in papers containing green, but frequently, and even in large quantities, in paper of all colors, even in some that are nearly white. As his authority he quotes an eminent analytical chemist, late lecturer on chemistry at St. Bartholemew's Hospital, to whom he sent papers of various colors, such as dark brown, buff, white, blue and several delicate shades of grey, drab and mauve, and from the symptoms to which they apparently gave rise were suspected of containing this metal. The results of analysis were, that in every instance, the papers which were taken from vated design is in fact by the master; bed-room walls contained arsenic, and while the execution, in part at least, is clearly indicate that it is impossible for that of his school. We need not point any one, professional or otherwise, to arsenic or not, or whether much or li egated to his scholars. It is equally years' suffering (with few intervals) from notorious how much was consigned to arsenical poisoning from this source, the becomes a nice point to determine where editor of the British Medical Journal, phere of his rooms, he says, is far purer be substituted for paper, care must be taken in the selection of the pigments, instance, the Madonna's red girdle is ob- many of which also contain arsenic and have proved very injurious.

employed in taking a series of careful soundings in the Baltic, craising in different directions with a view to ascertain the depth, currents and other phenomena of that peculiar sea. The greatest depth, 726 feet, is between Gothland and Windan, fron which it appears that the sea is not so deep by 380 feet as was believed REMARKABLE CASE OF SIMULATION .from former soundings. Between 600 feet and the bottom the water was extremely cold even in July; no sign of vegetation was brought up by the dredge, and no living thing except a few worms. Plants are most abundant in the first sixty feet below the surface, and animals are numerous down to three hundred feet. Below that depth the cold probably checks the existence of fresh water species, while the small quantity of salt in the water is fatal to the life of marine animals. Generally speaking, it may be said that the western half of the Baltic contains abundant life and vegetation, while the eastern half is barren. We understand that a full account of this exploration, with the scientific results, the force, extent and direction of currents, the proportion of fresh, salt and brackish water, and lists of animals and plants, is to be published. Salt water is poured in an under-current from the North Sea, while brackish water flows out as surface-current.

Soundings in the Baltic.-During the

past summer a German vessel has been

A visiron from Hartford to Martha's Vineyard camp ground, who has been suffering from the exorbitant charges made for everything during a meeting week," such as four dollars for breakfast, etc., was strolling past the societies tents (which encircled the tabernacie.) where meetings were being held. Just as he was passing one, the voice of an exhorter was heard; "Salvation's free! Salvation's free !" He stopped and said : "I'll take some of that; it's the only thing I've heard of since I've been here that I haven't had to pay a good price for."

THE arrival of vessels at Boston during the first nine months of last year exceed